

STAFF ANALYSIS OF CALPEAK POWER LLC'S REQUEST
TO EXTEND THE SEPTEMBER 30, 2001 ON-LINE DATE
FOR THE CALPEAK BORDER LLC PROJECT
(01-EP-14)

INTRODUCTION

The CalPeak Border LLC Project (Border Project) is a 49.5 MW emergency simple cycle, natural gas-fired power plant, located in the City of San Diego. The project was certified by the Commission on July 11, 2001. Construction was initiated on July 25, 2001 and work has been conducted 7 days a week 24 hours a day. Construction is essentially complete and the project is in final commissioning.

CalPeak Power LLC (CalPeak) is requesting that the Commission extend the on-line date for the Border Project beyond the September 30, 2001 deadline specified in the Commission's Decision (01-EP-14). CalPeak is requesting an extension of the on-line date to November 7, 2001. The Border Project may come on-line prior to that date, has already completed first fire of the turbine, and has already synchronized to the electrical grid.

CalPeak requires an extension of the September 30, 2001 on-line date for the Border Project because of several unforeseen and uncontrollable events concerning delays to manufacturer components, and delays in installation of phone lines required for telemetry. The delayed components included critical path Selective Catalytic Reduction (SCR) air emission control system and gas compressor components that were delayed by the manufacturers. Committed shipping dates linked to the September 30 deadline were missed. In addition, the September 11, 2001 terrorist attack impacted transportation for critical personnel and components to the Border Project site.

Staff's analysis is based on the following requirement as specified in the Commission's Decision for the Border Project:

“Start of Operations: The CalPeak Border Project shall be on line by no later than September 30, 2001. If the CalPeak Border Project is not operational by September 30, 2001, the Energy Commission will conduct a hearing to determine the cause of the delay and consider what sanctions, if any, are appropriate. If the Energy Commission finds that the project owner failed to proceed with due diligence to have the CalPeak

Border Project in operation by September 30, 2001, the Applicant shall forfeit its certification.”

CalPeak has filed a petition for an amendment extending its on-line date from September 30, 2001, to November 7, 2001, pursuant to Title 20, section 1769(a)(1) of the Siting Regulations. This amendment petition is required because the failure to meet the September 30, 2001, on-line date constitutes a modification to the project's operation or performance requirements. Namely, they will not be operating on September 30, 2001, as required by the Commission's Decision.

APPROACH

Based on the Commission's July 11, 2001 decision certifying the project, Staff's analysis focused on the cause of the delay and whether sanctions, including forfeiture of certification should CalPeak be deemed to have failed to proceed with due diligence, to have the CalPeak Border Project in operation by September 30, 2001, are appropriate.

If the Commission finds that CalPeak proceeded with due diligence, the Commission should approve CalPeak's petition to amend the Decision to extend the on-line date, and must decide if sanctions are appropriate. If the Commission finds that the project owner failed to proceed with due diligence, the Commission should require CalPeak to forfeit its certification in accordance with the Decision.

BACKGROUND

The Governor declared a state of emergency on January 17, 2001, and issued several executive orders to alleviate an energy supply emergency. In this regard, the Governor ordered the Commission to expedite the processing of applications for peaking and renewable power plants. The Executive Orders covered projects that could be on-line in 2001 and 2002. This project was permitted to not only be on-line for this summer (by September 30, 2001), but also 2002.

All ten of the other emergency projects approved by the Commission agreed to have their power plants operational by the September 30 deadline as a condition of their permit. The first six projects permitted in 2001 (Larkspur, Indigo, Drews, Century, Hanford and Enterprise) are currently operational.

Four projects permitted under the emergency permitting process have not met the required September 30, 2001 on-line date. On August 22, 2001, the Commission approved an amendment for one of those projects, the 50 MW Calpine King City Project, to extend the on-line date to December 28, 2001. The 135 MW Calpine Gilroy Project was not operational on September 30, 2001 and

filed an amendment petition on October 16, 2001 to extend their on-line date. The 180 MW Pegasus project has suspended construction, does not have a power purchase agreement from the California Department of Water Resources, and is currently in negotiations for the sale of the project to the new California Power Authority. Pegasus filed an amendment petition on October 1, 2001 to extend it's on-line date and is in the process of responding to data requests issued by staff in order to complete it's petition. Pegasus is also considering filing an application under the Commission's 4-month permitting process. The Ramco Chula Vista project was terminated prior to construction due to market conditions.

CALPEAK BORDER PROJECT TIMELINE

- January 11, 2001 - In expectation of power plant project approvals during the summer of 2001, CalPeak ordered seven SCR systems from their manufacturer and requested a May, 2001 delivery.
- June 2001 - CalPeak informed by manufacturer that SCR components are completed and ready to ship when needed.
- June 14, 2001 - CalPeak filed AFC under Emergency Permitting Process.
- July 11, 2001 - The Commission certified the Border Project.
- July 12, 2001- CalPeak requested an Insignificant Project Change for a new access road because they were unable to access site from existing roadways.
- July 24, 2001 - CalPeak cleared all requirements (pre-construction submittals) to begin site mobilization and grading for the new site.
- July 26, 2001 - Staff authorized Insignificant Project Change for temporary use of new access road to allow timely start of construction.
- July 28, 2001 - CalPeak initiated site mobilization, clearing and grading.
- July 31, 2001 - CalPeak discovered that SCR components guaranteed by the manufacturer for delivery to the Border project were not completed.
- August 1- August 10, 2001 - CalPeak contacted the manufacturer to determine status of missing parts. After receiving innacurate shipping data from manufacturer, CalPeak rerouted SCR components from Northern California sites to the Border Project to accommodate the Border Project construction schedule.

- August 1, 2001 - CalPeak initiated 24 hour, seven-day construction schedule in order to meet construction milestones and on-line deadline. Construction activities included excavation and construction of foundations for combustion turbine generators and SCR units.
- August 6, 2001 - CalPeak cleared all requirements for permanent construction and received start construction letter from Commission staff.
- August 10, 2001 - CalPeak initiated construction of permanent foundations and structures. Contractor began erecting sections of SCR components, including structural elements, that had been received at the Border site.
- August 14-16, 2001 - CalPeak sent a letter to manufacturer addressing missing components and lack of response to delivery requests. CalPeak conducts second audit and determines missing SCR components have in fact not been shipped by the manufacturer.
- August 19-20, 2001 - CalPeak expediter arrived at the manufacturer to determine status of missing components. CalPeak determined missing components may result in delay of September 30, 2001 on-line date.
- August 21, 2001 - CalPeak notified staff of potential SCR procurement issues that would likely impact September 30, 2001 on-line date. However, CalPeak intended to continue good faith efforts to meet the September 30 deadline.
- August 28, 2001 - Staff requested CalPeak to file a petition to amend the Decision, including requirements in Section 1769 of the Commission's Regulations, a timeline describing the events resulting in the on-line delay, specified new on-line date, detailed construction schedule, and specific measures CalPeak would implement to ensure the new schedule is met.
- September 3, 2001 - CalPeak determined delivery date for SCR components to be September 28, 2001.
- September 11, 2001 - Terrorists attacked the United States, all air traffic suspended and US Borders closed. Several key CalPeak personnel required for commissioning activities and shipments of SCR and gas compressor components in route from Mexico are delayed pending the commencement of air operations.
- September 16, 2001 – CalPeak sent an engineer to the gas compressor manufacturer's facility to determine the status of the unit and related components.
- September 24, 2001 – CalPeak completed fabrication of missing SCR components and installed the SCR system, avoiding further delay if they

would have waited for shipment of parts. CalPeak then began installation of various other SCR supporting systems (e.g., ammonia injection system, Continuous Emission Monitoring System - CEMS, tuning activities, and catalyst loading) that were all dependent upon first completing the SCR system.

- September 25, 2001 - CalPeak filed petition to amend Decision to extend the on-line date.
- October 11, 2001 - CalPeak requested and obtained a variance from the local air district in order to operate without SCR and other supporting systems for 100 hours. This variance is now not required for operation because the SCR and other supporting systems have been completed as of October 20, 2001.
- October 12, 2001 - CalPeak informed staff that gas compressors, as well as related components required for continuous operations, were further delayed by the manufacturer, and that installation of telemetry phone lines was incomplete.
- October 16, 2001 - CalPeak completed "first fire" and is synchronized to the electrical grid. Continuous operations contingent upon installation of gas compressor units.
- October 22, 2001 - Calpeak completed installation of gas compressor components immediately upon delivery, completed installation of telemetry phone line, and has initiated final commissioning activities.

ANALYSIS

The following points suggest that CalPeak proceeded with due diligence to meet the September 30 on-line date:

- CalPeak implemented fast track construction activities in an aggressive effort to meet the September 30th deadline. After initial ground clearing activities had been completed, CalPeak submitted a complete design package to the CBO at the City of San Diego enabling them to minimize the time required for plan check that prevented unnecessary delays in the construction schedule.
- CalPeak mobilized a large construction and contractor force, and immediately began working 24 hours a day, seven days a week and effectively met or exceeded construction milestones required to meet the September 30 on-line date. CalPeak continued this effort despite concerns that missing SCR components could impact their on-line date.

- CalPeak procured combustion turbine generators and other required equipment in advance of foundation pouring.
- CalPeak immediately notified staff once they were aware of serious impacts to the construction schedule due to missing SCR components and worked diligently to resolve those problems. They re-routed selected SCR components to the Border Project site, and began constructing selected SCR components onsite rather than rely on delivery from the manufacturer.
- CalPeak worked diligently with the gas compressor manufacturer to ensure timely delivery of the compressor and related components. Upon discovering that the compressor would not be ready in time to satisfy the September 30 on-line date, CalPeak sent an engineer to the manufacturer to physically inspect the compressor, and required shipment coinciding with completion of the SCR, or earlier.
- CalPeak obtained a 100-hour variance from the local air district to operate without SCR technology, if necessary, in order to respond to Independent System Operator (ISO) emergency calls for power. This variance would also provide for start up and commissioning activities. However, the variance is presently unnecessary for operations because the SCR system and related components were completed as of October 20, 2001.

The following suggest that CalPeak may not have proceeded with due diligence to meet the September 30 on-line date:

- CalPeak did not start construction of the Border Project until July 28, 2001, over two weeks after certification on July 11, 2001, because of an oversight concerning use of an access road. CalPeak should have ensured adequate control of an access route to the site prior to certification.

CONCLUSION

Notwithstanding the delay in initiating construction, CalPeak has consistently acted aggressively in trying to meet the September 30th deadline at considerable costs. As of October 22, 2001, the Border Project has completed first fire, installed gas compressor systems, completed SCR installation, and has synchronized to the electrical grid. The project is essentially complete and should be operational prior to the requested November 7, 2001, on-line date.

Based on the information provided by CalPeak, and staff's independent review, staff does not believe that sanctions are appropriate, and is of the opinion that

CalPeak proceeded with due diligence in an attempt to meet the September 30, 2001 on-line date.

In reaching this conclusion, staff finds that the change to the Border Project on-line date is based on information that was not available to the parties prior to Commission certification (in that the delay in obtaining SCR components was not expected). Staff also finds that, with this change, the Border Project will not result in potential for significant environmental impact, will remain in compliance with Laws, Ordinances, Regulations, and Standards (LORS), will be beneficial to the project owner and the public, and will remain in compliance with the existing Conditions of Certification approved by the Commission under the Emergency Siting Process.

RECOMMENDATIONS

Staff recommends that CalPeak's amendment petition to extend the on-line date of the Border Project be approved and the Commission's Decision be amended as follows:

Start of Operations: The CalPeak Border Project shall be on line by no later than *November 7, 2001*. If the CalPeak Border Project is not operational by *November 7, 2001*, the Energy Commission will conduct a hearing to determine the cause of the delay and consider what sanctions, if any, are appropriate. If the Energy Commission finds that the project owner failed to proceed with due diligence to have the CalPeak Border Project in operation by *November 7, 2001*, the Applicant shall forfeit its certification.

Dated: October 23, 2001

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